

2C



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,398	08/15/2001	Christine Carlucci	866.0002	1023

7590 10/29/2002

Marguerite Del Valle
Trademark and Patent Counselors of America, P.C.
19th Floor
915 Broadway
New York, NY 10010

EXAMINER

EREZO, DARWIN P

ART UNIT	PAPER NUMBER
----------	--------------

3761

DATE MAILED: 10/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

S.M.

Office Action Summary	Application No.	Applicant(s)	
	09/930,398	CARLUCCI ET AL.	
	Examiner	Art Unit	
	Darwin P. Erez	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

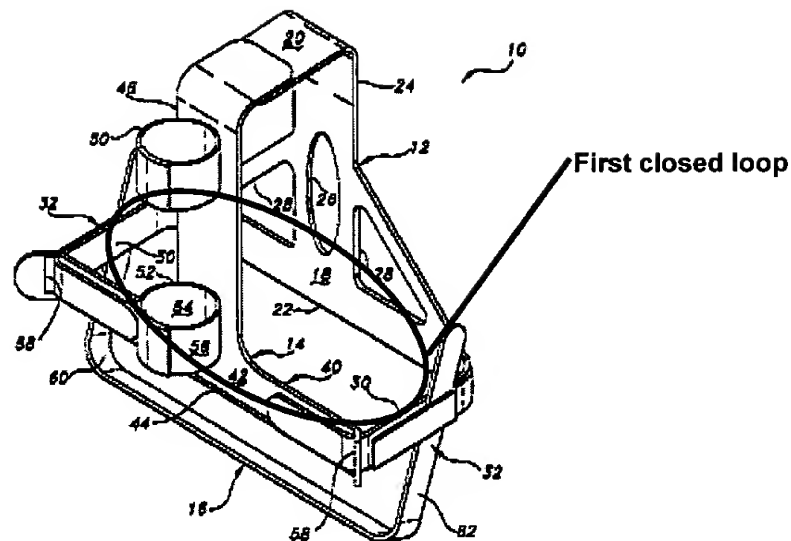
2. Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6,269,814 to Blaszczykiewicz et al.

3. **As to claim 1**, Blaszczykiewicz et al. teaches a device to secure medical tubing to a body comprising a fabric band having at least a first closed loop (see attached Fig. 1) and a second closed loop 50, wherein the first closed loop fits elastically around a portion of the body and the second closed loop is capable of receiving and holding medical tubing close to the body.

4. **As to claim 2**, Blaszczykiewicz et al. teaches a portion of the body being a head.

5. **As to claim 3**, Blaszczykiewicz et al. teaches the fabric band comprising non-irritating material (col. 2, line 38).

6. **As to claim 4**, Blaszczykiewicz et al. teaches the fabric band lined with friction creating material (Velcro).



7. **As to claim 5**, Blaszczykiewicz et al. teaches the fabric band having stitching (joined) to form the closed loops.

8. **As to claim 6**, Blaszczykiewicz et al. teaches a device to secure medical tubing to a body comprising a fabric band having a first closed loop (see attached Fig. 1), a second closed loop **50** and a third closed loop **52** wherein the first closed loop fits elastically around a portion of the body and the second and third closed loops are capable of receiving and holding a medical tubing close to the body.

9. **As to claim 7**, Blaszczykiewicz et al. teaches a device wherein the portion of the body is a head.

10. **As to claim 8**, Blaszczykiewicz et al. teaches the fabric band comprising non-irritating material (col. 2, line 38).

11. **As to claim 9**, Blaszczykiewicz et al. teaches the fabric band lined with friction creating material (Velcro).

12. **As to claim 10**, Blaszczykiewicz et al. teaches the fabric band having stitching (joined) to form the closed loops.
13. **As to claim 11**, Blaszczykiewicz et al. teaches a device to secure medical tubing to a body comprising a one piece band having a width wherein the stitching (joined) along the width joins portions of the band to form a first closed loop (see attached Fig. 1), a second closed loop **50** and a third closed loop **52**, and wherein the first closed loop fits elastically around a portion of the body and the second and third closed loops are capable of receiving and holding medical tubing close to the body.
14. **As to claim 12**, Blaszczykiewicz et al. teaches a device wherein the portion of the body is a head.
15. **As to claim 13**, Blaszczykiewicz et al. teaches the fabric band comprising non-irritating material (col. 2, line 38).
16. **As to claim 14**, Blaszczykiewicz et al. teaches the fabric band lined with friction creating material (Velcro).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darwin P. Erez whose telephone number is (703) 605-0420. The examiner can normally be reached on M-F (8:30-5:00).

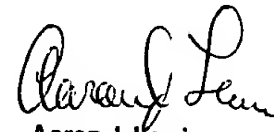
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Aaron Lewis can be reached on (703) 308-0716. The fax phone numbers

Art Unit: 3761

for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

dpe
October 21, 2002



Aaron J. Lewis
Primary Examiner